UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BREEANNE BUCKLEY PENI, Individually,
and on Behalf of All Others Similarly Situated,

              Plaintiff,

      v.

DAILY HARVEST, INC. and SECOND BITE
FOODS, INC. d/b/a "STONE GATE FOODS",
SMIRKS, LTD., AND MOLINOS ASOCIADOS
SAC,

              Defendants.

Civil Action No.: 22-CV-05443
Honorable Denise Cote

~~[PROPOSED]~~ ORDER ESTABLISHING
THE PENI QUALIFIED SETTLEMENT FUND II

Upon the Consent Motion of the Settlement Administrator, not opposed by the Parties, this Court issues the following Order establishing the Peni Qualified Settlement Fund II for the resolution of claims brought by the Settlement Class Members, respecting certain personal injuries, through their Counsel (the "Class Counsel") against the Settling Defendants Smirks and Molinos.

1. A Class Action Settlement Agreement (the "Agreement") was executed to resolve claims brought by the Settlement Class Members against these two Settling Defendants, and was preliminarily approved by this Court on October 9, 2024.

2. The Court approves and hereby establishes the Peni Qualified Settlement Fund II, to be a Qualified Settlement Fund for Federal tax purposes pursuant to Internal Revenue Code § 468B and Treas. Reg. § 1.468B-1 and to resolve all claims of the Settlement Class Members against these two Settling Defendants.

3. The Settlement Administrator is granted authority to conduct all activities necessary to administer the Qualified Settlement Fund consistent with the Parties' Settlement Agreement, the Court's Order granting preliminary approval of the Settlement, and any further Orders of the Court.

Further, the Court retains personal jurisdiction of the Qualified Settlement Fund and the Claims Administrator until such time as the Fund is exhausted pursuant to the Parties' Settlement Agreement and the Court discharges the Claim Administrator from his duties and responsibilities imposed by the Order appointing him.

IT IS SO ORDERED.

Dated: _October 24, 2024_

_____
THE HONORABLE DENISE COTE
UNITED STATES DISTRICT JUDGE